

Hector Gutierrez
1015 Rosewood Ave
Inglewood CA. 90301
424-200-1504
heg254@aol.com

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
ST. LOUIS DIVISION

HECTOR GUTIERREZ,
Plaintiff,

vs.

23ANDME, INC.; ANNE WOJCICKI;
TTAM RESEARCH INSTITUTE; AND
DOES 1 THROUGH 10, INCLUSIVE,

Defendant

Case No.: 25-40976 Debtor.

COMPLAINT FOR
DETERMINATION OF NON-
DISCHARGEABILITY, FRAUD,
CONSTITUTIONAL VIOLATIONS,
AND RELIEF FROM STAY

Plaintiff Hector Gutierrez alleges as follows:

I. JURISDICTION AND VENUE

COMPLAINT FOR DETERMINATION OF NON-DISCHARGEABILITY, FRAUD, CONSTITUTIONAL
VIOLATIONS, AND RELIEF FROM STAY - 1

- 1 1. This Court has jurisdiction under 28 U.S.C. §§ 157 and 1334.
- 2 2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (B), and (O).
- 3 3. Venue is proper pursuant to 28 U.S.C. § 1409(a).
- 4 4. This matter arises in connection with 23andMe's Chapter 11 proceeding in
- 5 Case No. 25-40976.
- 6 5. Plaintiff seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d).
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11 II. PARTIES

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- 14 6. Plaintiff Hector Gutierrez is an individual residing in Inglewood, California.
- 15 7. Plaintiff submitted his genetic material and health information to 23andMe
- 16 based on its representations of privacy and control.
- 17 8. Defendant 23andMe, Inc. is a Delaware corporation and debtor in this
- 18 bankruptcy.
- 19 9. Defendant TTAM Research Institute is a third-party entity acquiring assets
- 20 of 23andMe, including genetic data.
- 21 10. DOES 1-50 are unknown parties involved in the breach, monetization, or
- 22 concealment of Plaintiff's genetic data.
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III. FACTUAL ALLEGATIONS

11. Plaintiff entrusted 23andMe with sensitive genetic data and was assured of confidentiality.

12. In 2023, a breach occurred compromising his genetic and health data.

13. 23andMe failed to notify Plaintiff timely or identify the perpetrators.

14. Defendants have made no effort to retrieve stolen data or mitigate harm.

15. Plaintiff believes Defendants negligently or intentionally allowed unauthorized access.

16. 23andMe filed bankruptcy while moving customer data to TTAM without disclosing the breach.

17. The Chapter 11 filing aims to cut off victims' rights, including Plaintiff's, through judicial shielding.

18. Plaintiff alleges Defendants used arbitration clauses and fine-print language to mislead users and courts.

19. Defendants engaged in fraudulent inducement and concealment.

20. Their conduct amounts to wire fraud under 18 U.S.C. § 1343.

21. The use of bankruptcy to immunize liability constitutes fraud upon the court.

22. Plaintiff suffered emotional, reputational, and dignitary harm as a result.

1 23.Plaintiff does not know where his genetic identity is now stored or being
2 used.
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5 IV. CLAIMS TO BE ASSERTED IN FEDERAL COURT
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8 24.Violation of Constitutional Rights (1st, 4th, 5th, 14th Amendments)
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10 25.Violation of 42 U.S.C. § 1983

11 26.Fraudulent Inducement

12 27.Constructive Fraud

13 28.Gross Negligence

14 29.Negligence

15 30.Intentional Misconduct

16 31.Wire Fraud (18 U.S.C. § 1343)

17 32.Conversion

18 33.Invasion of Privacy

19 34.Violation of California Constitution, Art. I, Sec. 1

20 35.Violation of GIPA (Genetic Information Privacy Act)

21 36.Violation of GINA (Genetic Information Nondiscrimination Act)

22 37.Civil Conspiracy
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1 38.Intentional Infliction of Emotional Distress

2 39.Declaratory Judgment

3 40.Permanent Injunction

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6 V. CONSTITUTIONAL OBJECTION TO DISCHARGE
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9 41. Plaintiff objects to any discharge, limitation, extinguishment, or preemption
10 of his rights and claims against 23andMe under the current or proposed bankruptcy
11 plan, on the grounds that such discharge would violate Plaintiff's constitutional
12 rights to petition the government for redress, to access the courts, and to pursue
13 unwaivable tort and privacy-based causes of action individually grounded in the
14 U.S. Constitution.
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19 42.Discharge or extinguishment of these claims constitutes a de facto
20 deprivation of constitutional rights without due process, in violation of the
21 Fifth and Fourteenth Amendments, including the right to bodily autonomy
22 and informational privacy.
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1 43. Plaintiff specifically challenges any use of the bankruptcy process to
2 obstruct or eliminate claims rooted in violations of the First, Fourth, and
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4 Fourteenth Amendments, as well as 42 U.S.C. § 1983.
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7 VI. APPLICATION OF TRUMP v. CASA (2025)
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9 44. Pursuant to *Trump v. CASA, Inc.* (U.S. 2025), the Supreme Court clarified
10 that courts may no longer issue broad systemic injunctions or classwide remedies
11 unless a plaintiff establishes individualized harm and standing.
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15 45. Plaintiff satisfies the Trump v. CASA threshold for individual
16 constitutional standing. He alleges personal, data-linked, reputational, and
17 psychological injury caused by 23andMe's breach, concealment, and fraudulent use
18 of his genetic data.
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22 46. Under Trump v. CASA, the federal courts may still provide
23 individualized injunctive and declaratory relief where a plaintiff alleges
24 personalized constitutional violations, which Plaintiff does here.
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1 47. Therefore, this Court may not discharge or deny adjudication of
2 Plaintiff's constitutional claims under the fiction of class action waiver, arbitration
3 preemption, or global bankruptcy reorganization.
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9 VII. REQUEST FOR RELIEF FROM STAY UNDER 11 U.S.C. § 362(d)
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12 48. Plaintiff seeks relief from the automatic stay to pursue claims in the U.S.
13 District Court, Northern District of California.
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16 49. Cause exists due to: a. Constitutional violations and civil rights claims; b.
17 Post-petition, non-core conduct by non-debtor parties; c. Fraudulent
18 concealment and tortious acts; d. No prejudice to estate administration; e. No
19 alternative remedy under reorganization plan.
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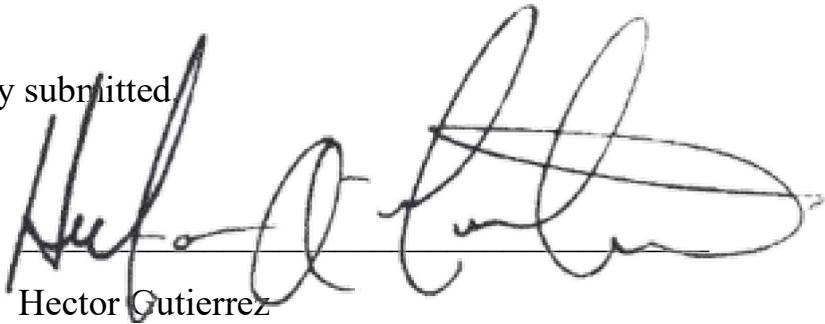
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23 VII. PRAYER FOR RELIEF
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26 WHEREFORE, Plaintiff prays that this Court:
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- 1 1. GRANT relief from the stay under 11 U.S.C. § 362(d);
- 2 2. DECLARE that Plaintiff's claims are not dischargeable;
- 3 3. AUTHORIZE Plaintiff to prosecute said claims in U.S. District Court;
- 4 4. DECLARE that Defendants engaged in actionable misconduct, including
- 5 fraud, conversion, negligence, and constitutional violations;
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- 7 5. GRANT any other relief deemed just and proper.
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11 Dated: July 16, 2025

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14 Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hector Gutierrez', written over a horizontal line.

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17 Hector Gutierrez
18 Pro Se Plaintiff
19 1015 Rosewood Ave
20 Inglewood CA. 90301
21 424-200-1504
22 heg254@aol.com
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26
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